

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DILENIA PAGUADA, *on behalf of herself and all
others similarly situated*,

Plaintiff,

– against –

VIRTUE LABS, LLC,

Defendant.

ORDER

20 Civ. 6955 (ER)

RAMOS, D.J.:

Plaintiff filed this case on August 27, 2020. Defendant was served with process on October 6, 2020. On April 5, 2021, Plaintiff was directed to move for default pursuant to this Court's individual practices or otherwise submit a status report to the Court by no later than April 19, 2021. Doc. 6. On April 19, 2021, the Court granted Plaintiff's motion for an extension of time to move for default or otherwise file a status update by May 19, 2021. Doc. 8. On July 14, 2021, Plaintiff's counsel filed an affirmation in support of a request for the Clerk's Certificate of Default. Doc. 10. On July 14, 2021, the Clerk of Court filed a Certificate of Default as to Defendant. Doc. 11.

Plaintiff's filings to date do not comport with the Court's individual practices governing default judgment procedure. *See* Individual Practices of Judge Edgardo Ramos, Attachment A. If Plaintiff wishes to obtain a default judgment, she must proceed by way of order to show cause. Specifically, Plaintiff must:

- (1) prepare an Order to Show Cause for default judgment and make the Order returnable before Judge Ramos in Courtroom 619 of the United States Courthouse, 40 Foley Square, New York, NY. Leave the date and time of the conference blank. Judge Ramos will set the date and time when he signs the Order.

(2) attach the following papers to the Order to Show Cause:

- a. an attorney's affidavit setting forth:
 - i. why a default judgment is appropriate, including a description of the method and date of service of the original summons and complaint;
 - ii. whether, if the default is applicable to fewer than all of the defendants, the Court may appropriately order a default judgment on the issue of liability and/or damages prior to resolution of the entire action (*see* Fed. R. Civ. P. Rule 54(b));
 - iii. the proposed Statement of Damages and the basis for each element of damages including interest, attorney's fees, and costs; and
 - iv. legal authority for why an inquest would be unnecessary;
- b. a proposed default judgment;
- c. copies of all of the pleadings;
- d. a copy of the affidavit of service of the original summons and complaint; and
- e. if failure to answer is the basis for the default, a Certificate from the Clerk of Court stating that no answer has been filed.

(3) file the proposed Order to Show Cause on ECF in accordance with the Court's Electronic Case Filing Rules & Instructions.

(4) after the Clerk approves the Order to Show Cause and the Judge signs and files it on ECF, print a copy and serve it on the defendant.

(5) prior to the return date, file the affidavit of service on the defendant of a conformed copy of the Order. For ECF cases, the affidavit of service must be filed electronically on the ECF system.

Plaintiff is therefore directed to move for default pursuant to this Court's individual practices by no later than **November 8, 2021**.

It is SO ORDERED.

Dated: November 1, 2021
New York, New York



Edgardo Ramos, U.S.D.J.